

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

United States of America,

Plaintiff,

v.

Calvin James,

Defendant.

**MEMORANDUM OPINION  
AND ORDER**

Criminal No. 06-265 ADM/JJG  
Civil No. 10-1387 ADM

---

Calvin James, pro se.

W. Anders Folk, Assistant United States Attorney, Minneapolis, MN, for Plaintiff.

---

**I. INTRODUCTION**

By Order (“Order”) dated July 28, 2010 [Docket No. 136] the undersigned United States District Judge denied Defendant Calvin James’s (“James”) Motion to Vacate, Set Aside or Correct Sentence Pursuant to 28 U.S.C. § 2255 [Docket No. 120] (“2255 Motion”). On August 12, 2010, James filed a Motion to Alter or Amend Judgment [Docket No. 138] pursuant to Rule 59(e) of the Federal Rules of Civil Procedure (“Rule 59(e) Motion”). The factual and procedural background of this matter is set forth in the Court’s previous Order and will not be repeated here. See Order at 1-3. For the reasons discussed below, James’s motion is denied.

**II. DISCUSSION**

**A. Rule 59(e)**

“Rule 59(e) motions serve the limited function of correcting manifest errors of law or fact or to present newly discovered evidence.” United States v. Metro St. Louis Sewer Dist., 440 F.3d 930, 933 (8th Cir. 2006) (quotation marks omitted). “Such motions cannot be used to

introduce new evidence, tender new legal theories, or raise arguments which could have been offered or raised prior to entry of judgment.” Id. (quoting Innovative Home Health Care v. P.T.-O.T. Assoc. of the Black Hills, 141 F.3d 1284, 1286 (8th Cir. 1998)). Courts have “broad discretion in determining whether to grant or deny a motion to alter or amend judgment pursuant to Rule 59(e).” Id. Parties are granted relief under Rule 59(e) only in “extraordinary” circumstances. United States v. Young, 806 F.2d 805, 806 (8th Cir. 1987).

## **B. James’s Arguments**

James’s primary contention is that the Court erred by failing to grant him an opportunity to reply to the government’s brief opposing James’s 2255 Motion.<sup>1</sup> After reviewing James’s reply brief, the Court concludes that no manifest errors of fact or law appeared in its Order. The issues raised in James’s reply brief and his Rule 59(e) Motion are the same arguments raised in his 2255 Motion. James seeks to merely revisit the Court’s previous Order and his arguments have already been considered and rejected.

---

<sup>1</sup> On July 6, 2010, James moved for an enlargement of time to respond to the government’s opposition brief to James’s 2255 Motion. The Court’s July 28, 2010 Order mooted James’s motion for an enlargement of time and the Court so noted in its Order. On August 5, 2010, James filed his reply brief.

### **III. CONCLUSION**

Based upon the foregoing, and all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that James's Motion to Alter or Amend Judgment [Docket No. 138] pursuant to Rule 59(e) is **DENIED**.

BY THE COURT:

s/Ann D. Montgomery  
ANN D. MONTGOMERY  
U.S. DISTRICT JUDGE

Dated: September 7, 2010.